TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [illegible].

No. [illegible]18.

MGR. JEREMIAH J. HARTY, APPELLANT AND PLAINTIFF IN ERROR,

vs.

THE MUNICIPALITY OF VICTORIA.

APPEAL FROM AND IN ERROR TO THE SUPREME COURT OF THE PHILIPPINE ISLANDS.

FILED OCTOBER 13, 1904.

(21,873.)

(21,873.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1911.

No. 149.

MGR. JEREMIAH J. HARTY, APPELLANT AND PLAINTIFF IN ERROR,

vs.

THE MUNICIPALITY OF VICTORIA.

APPEAL FROM AND IN ERROR TO THE SUPREME COURT OF THE PHILIPPINE ISLANDS.

INDEX.

	Original.	Print
Bill of exceptions from court of first instance	1	1
Bill of complaint	1	1
Answer	3	2
Statement of evidence introduced by plaintiff	4	2
Statement of evidence introduced by defendant	4	3
Decision	5	3
Motion for new trial overruled	7	4
Clerk's certificate as to bill of exceptions	7	5
Plaintiff's request as to appeal bond, &c.	8	5
Order as to appeal bond	9	5
Exception to order as to bond	10	6
Letter of municipal president transmitting appeal bond	10	6
Appeal bond	11	6
Judge's certificate to bill of exceptions	13	7
Clerk's certificate to bill of exceptions	13	7

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., NOVEMBER 11, 1911.

	Original.	Print
Evidence for plaintiff	14	8
Testimony of Casimiro Tañedo Miguel	14	8
Cirilo Vergara	20	11
Mariano Rigor	25	14
Regino Rigor	31	18
Eusebio Natividad	38	22
Evidence for defendant	39	23
Testimony of Fermin Tolentino	39	23
Ignacio Villarta	43	25
Martin Caita	45	26
Mariano Ricor	47	27
Pedro Mariano	49	28
Stenographer's certificate	52	30
Exhibit A—Diagram	53	30
1—Annual report of the Municipality of Victoria for year 1906	54	31
2—Certificate of baptism of Silvestre Rigor	59	34
Case filed in supreme court	60	34
Assignment of errors	60	34
Brief for appellee	60	34
Argument before supreme court	63	36
Opinion	64	37
Judgment	71	40
Affidavit of Jeremiah J. Harty	72	41
Affidavit of Thomas L. Hartigan	74	41
Affidavit of William J. Rohde	75	42
Petition for appeal	76	43
Assignment of errors on appeal	77	43
Petition for writ of error	78	44
Assignment of errors on writ of error	79	44
Order to show cause on petition for appeal and writ of error	80	45
Order postponing hearing on petition	81	46
Order as to value of property	82	46
Order allowing appeal	84	47
Citation on appeal (copy)	85	48
Writ of error (copy)	86	49
Citation on writ of error (copy)	88	50
Bond on appeal	89	51
Bond on writ of error	91	52
Clerk's certificate	93	53
Petition for appeal (original)	94	53
Assignment of errors (original)	95	54
Order allowing appeal (original)	96	54
Citation on appeal (original)	97	55
Writ of error (original)	98	56
Citation on writ of error (original)	100	57

1 THE UNITED STATES OF AMERICA,
Philippine Islands:

IN the Court of First Instance of the Province of Tarlac.

MGR. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff,

vs.

THE MUNICIPALITY OF VICTORIA, Defendant.

Bill of Exceptions.

Be it remembered that, at a term of the Court of First Instance of the Province of Tarlac, the following proceedings in the above-entitled action were had:

On January 17th, 1908, plaintiff herein filed a bill of complaint in the Court of First Instance of the Province of Tarlac, Philippine Islands, which said bill, omitting title of Court and cause, is as follows:

Comes now plaintiff, through his Attorneys Hartigan, Rohde & Gutierrez, and as a cause of action against the defendant alleges:

(1) That he is the duly appointed Roman Catholic Archbishop of the City of Manila, duly constituted as a unipersonal corporation under the laws of the Philippine Islands;

(2) That the defendant municipality is a corporation duly organized under the laws of the Philippine Islands;

(3) That plaintiff in his aforesaid capacity, as set out in
2 paragraph 1 of this complaint, is the legal administrator of all the property and rights which the Roman Catholic Apostolic Church has within the archdioces- of Manila;

(4) That the Parish of Victoria, of the Roman Catholic Church, has been and is now the owner of a parcel of land known as the "plaza" (Square) of the Church of Victoria, situated within the Municipality of Victoria, Province of Tarlac, Philippine Islands, its metes and bounds being as follows:

It is bounded on the north by the street formerly known as Pinac, now San Mariano; on the east by the street formerly named La Paz and now San Ambrosio; on the south by the street formerly known as Real and now Rizal, and on the west by the street formerly named Gerona and now San Gabriel. It measures two hundred and sixty-six meters on the north, three hundred and nine meters on the east and west, and two hundred and ninety-five meters on the south;

(5) That the Parish of Victoria, of the Roman Catholic Church, acquired the said land more than sixty years ago, and has since that time been in possession thereof until the year 1901, when defendant municipality forcibly and unlawfully took possession of the same;

(6) That the defendant municipality is now in possession of the said land and claims title thereto;

(7) That the Municipality of Victoria, Province of Tarlac, is within the jurisdiction of the archdioces- of Manila;

Wherefore, Plaintiff prays this honorable Court to enter judgment declaring that the said land is the property of the Parish Church of Victoria, of the Roman Catholic Apostolic Church, and directing that defendant vacate the same and pay the costs of this action.

Manila, January 17, 1908.

(Signed) HARTIGAN, ROHDE & GUTIERREZ,
Counsel for Plaintiff.

3 On February 6th, nineteen hundred and eight, defendant having previously appeared, filed its answer to plaintiff's complaint, through its Attorney Felipe Buencamino, which said answer, omitting title of Court and cause, is as follows:

The Municipality of Victoria, Province of Tarlac, Philippine Islands, through its Attorney Felipe Buencamino, appears and, answering plaintiff's complaint, alleges:

1.

That defendant denies, generally, all the allegations of the complaint.

2.

That defendant specifically denies the allegations contained in paragraphs 4, 5, 6 and 7 of complaint.

As a special defense, defendant alleges:

(*a*) That the plaza described in Paragraph 4 of the complaint was laid out at the time this barrio of the Municipality of Tarlac was separately incorporated as a town, in eighteen hundred and fifty-five;

(*b*) That the Parish of Tarlac, was established several years after the incorporation of the town and therefore has no right to the plaza now claimed by the plaintiff;

(*c*) That defendant has sustained damages by reason of the filing of the complaint herein;

Wherefore, the undersigned prays the Court to enter judgment dismissing the plaintiff's complaint, with costs, and awarding damages.

Manila (for Tarlac), P. I. February 6, 1908.

(Signed) FELIPE BUENCAMINO,
Counsel for Defendant,
No. 331 Salinas, San Nicolas, Manila.

4 In the Session Book of this court, and referring to the session held on the 20th of March, 1908 (10 a. m.), presided over by the Honorable Julio Llorente, Judge of the Court of First

Instance for the Fourth Judicial District, the following entry relating to the above-entitled action appears:

Present: Attorneys Rohde, in behalf of plaintiff, and Felipe Buencamino, in behalf of defendant.

Counsel for plaintiff, Mr. Rohde, introduced in evidence the testimony of Casimiro Tañedo, sixty-seven years of age, a farmer by occupation and a native of Tarlac, Province of Tarlac; Cirilo Vergara, Parish Priest of Victoria, Province of Tarlac, and resident thereof; Mariano Rigor, fifty-three years of age and resident of the municipality of Victoria, Province of Tarlac; Regino Ricor, sixty-four years of age, a laborer by occupation and a resident of Victoria, Province of Tarlac; Eusebio Natividad, fifty years of age and Parish Priest of Tarlac, Tarlac.

Whereupon counsel for plaintiff rested his case.

Counsel for defendant then introduced evidence consisting of the testimony of Fermin Tolentino, sixty-eight years of age, a laborer by occupation and a resident of the Municipality of Victoria, Province of Tarlac; Ignacio Villarta, a native of Candon, Ilocos Sur, and a resident of Victoria, Province of Tarlac; Mariano Caita, a native of Candon, Province of Ilocos Sur, and a resident of Victoria, Province of Tarlac; Mariano Ricor, sixty-nine years of age, a laborer and a resident of the town of Victoria, Province of Tarlac, and Pedro Mariano, thirty-five years of age, Municipal President of Victoria and a resident thereof. He also introduced in evidence Exhibits marked "1" and "2" for identification.

Counsel for plaintiff objected to the admission of the former and made no objection to that of the latter.

After all the evidence was in, both counsel for plaintiff and defendant made their oral arguments.

The stenographic notes of the testimony of the witnesses for plaintiff and defendant, respectively, as well as the documentary proof introduced by defendant as aforesaid, and which are attached to the record, are hereby made a part of this bill of exceptions.

On June 19th, nineteen hundred and eight, the Honorable Julio Llorente, Judge of the Fourth Judicial District, rendered a decision against the defendant, declaring that the Parish Church of Victoria, of the Roman Catholic Apostolic Church, had a better right to the possession of the land described in the complaint and directing that defendant vacate the said land and pay the costs of this action. The decision is in the following words and figures, to-wit:

Decision.

The prayer of the complaint is that the land as described therein be adjudged to be the property of the Parish Church of Victoria, of the Roman Catholic Apostolic Church, and that defendant be directed to vacate the said land and pay the costs of this action.

From the result of the trial the Court makes the following findings:

(1) That the former owner of the land in question ceded the

same to the town of Victoria, which in turn transferred it to the Parish of said town and, consequently, to the Roman Catholic Apostolic Church;

(2) That the possession of the land in question by the Parish Church of Victoria dates back more than forty years. The
6 parish priests of the said town of Victoria were the persons who actually occupied the land, cultivating the same, grazing and pasturing their horses and planting trees thereon;

(3) That in nineteen hundred and one the municipality of Victoria occupied the said land by its own authority, without the consent of the plaintiff.

In view of these facts, the court finds that the parish church of Victoria has a superior right to the possession of the land in question. It is to be noted that one of the witnesses for the defendant testified that the acolytes of the town church raised crops on that land and that another witness for the defendant testified that the priests sowed rice and wheat there. Considering, further, the symmetry with which the trees have been planted (Exhibit "A"), it would seem that this was carried out under systematic, preconceived plan. The avenues formed by the trees lead to the church and to the convent, and on the other hand it is hardly to be believed that either the church or the convent had no more land than that upon which it stands—not even a small surrounding plot.

It is therefore ordered that judgment be entered declaring that the parish church of Victoria, of the Roman Catholic Church, has a superior right to the possession of the land described in the complaint and directing that defendant vacate the land and pay the costs of this action.

It is so ordered.

(Signed) JULIO LLORENTE.
Judge of the Fourth Judicial District.

Tarlac, Tarlac, P. I., June 19, 1908.

To the foregoing decision, and on the 26th of June, nineteen hundred and eight, defendant excepted in writing, and on the same date moved the court for a new trial, upon the ground
7 that the said decision was contrary to the weight of the evidence, and gave notice, that in the event that his said motion for a new trial was denied, it would prosecute an appeal to the Supreme Court of these Islands by means of a bill of exceptions.

By an order made on the 27th of July, nineteen hundred and eight, the court overruled the said motion for a new trial, and on the 1st of August, nineteen hundred and eight, defendant filed his bill of exceptions.

Wherefore, the undersigned prays this court to certify the foregoing bill of exceptions, that the same may be duly transmitted to the Supreme Court of these Islands.

Manila (for Tarlac), July 31, 1908.

(Signed) FELIPE BUENCAMINO.
Counsel for Defendant.
No. 331 Salinas, Tondo, Manila.

Received copy August 1, 1908.
(Signed) HARTIGAN & ROHDE,
Counsel for Plaintiff.

The foregoing bill of exceptions was received by yesterday's mail, and it is now forwarded to San Fernando, Pampanga, to be attached to the record and for certification by the Honorable Judge.
Tarlac, August 3, 1908.
(Signed) T. BESA SOLITARIO,
Clerk of Court.

8 (Title of Court and Cause.)

Comes now the plaintiff, and hereby expresses his conformity with the bill of exceptions filed by counsel for defendant.
Plaintiff asks that the appellant municipality give an appeal bond in the sum of one thousand dollars, Philippine currency.
Manila (for Tarlac), August 3, 1908.
(Signed) HARTIGAN & ROHDE,
Counsel for Plaintiff.

Received copy.
(Signed) FELIPE BUENCAMINO,
Counsel for Defendant.

The foregoing prayer having been received this day by mail, it is now forwarded by the undersigned to the Court of First Instance of San Fernando, Pampanga, for proper action by the court.
August 5, 1908.
(Signed) T. BESA SOLITARIO,
Clerk of Court, Tarlac.

Received this 7th day of August, 1908.
(Signed) MARCIAL U. CALLEJA,
Deputy Clerk, Court of First Instance, Pampanga.

9 (Title of Court and Cause.)

Order.

In conformity with appellee's request, it is hereby ordered by the court that the appellant give a bond in the sum of one thousand dollars, Philippine currency, to secure the judgment entered herein, in case the same be confirmed either in whole or in part.
It is so ordered.
(Signed) JULIO LLORENTE,
Judge of the Fourth Judicial District.

A copy of the foregoing order was immediately sent to counsel, to which I certify.
(Signed) T. BESA SOLITARIO,
Clerk of Court, Tarlac.

10 (Title of Court and Cause.)

Exception.

Comes now the undersigned attorney, in behalf of defendant, in the above-entitled cause, and respectfully excepts to the order of the court dated September 1, 1908, directing that defendant give a bond in the sum of one thousand dollars, Philippine currency, in connection with its appeal to the Supreme Court of these Islands.

Manila, September 4, 1908.

(Signed) FELIPE BUENCAMINO,
Counsel for Defendant, 331 *Salinas, Tondo, Manila, P. I.*

Received by mail this 5th day of September, 1908.

(Signed) T. BESA SOLITARIO, *Clerk*.

VICTORIA, TARLAC, P. I., *October* 2, 1908.

To the Clerk of the Court of First Instance, Tarlac.

SIR: In compliance with the order of the Court of First Instance for the Fourth Judicial District, dated September the 1st last, I have the honor to enclose herewith a bond in the sum of one thousand pesos, in connection with the appeal of the defendant municipality in Civil Cause No. 119.

Please acknowledge receipt.

Respectfully,

(Signed) PEDRO MARIANO,
Municipal President.

11 (Title of Court and Cause.)

Whereas the Municipa-ity of Victoria, the defendant in the above-entitled cause, has appealed to the Supreme Court of the Philippine Islands from the judgment entered against it in the said cause in the Court of First Instance on the 15th of June of the present year nineteen hundred and eight, directing the said municipality to vacate the land in question and to pay the costs of this action:

Now, therefore, in consideration thereof, and an appeal having been allowed, we, the undersigned, hereby jointly and severally bind ourselves in the sum of one thousand dollars, Philippine currency, and promise that, in case judgment be entered on appeal in favor of the plaintiff, the defendant shall pay to plaintiff all damages to the extent of one thousand pesos.

In witness whereof, we hereby sign this obligation, at Victoria, this second day of October, nineteen hundred and eight.

(Signed) MARTIN GAYLA.
" EUSEBIO VALDEZ.

(Signed) VALENTIN GAMALINDA, *Witness.*
(Signed) GAVINO MARIA AGUSTIN, *Witness.*

We, Martin Gayla and Eusebio Valdez, the sureties whose signatures are attached to the foregoing obligation, having been first duly sworn, each for himself says that he is a resident and property owner of this province and that he is solvent in the sum specified in the said obligation as a penalty, exclusive of all debts and liabilities and property exempt from execution.

12 Cedula No. 138,153, issued by this municipality February 1st, 1908.

MARTIN GAYLA.

The undersigned has no personal registration tax certificate, he being over sixty years of age, according to a certificate issued by the Secretary of the Municipality of this town, dated October 2, 1908.

EUSEBIO VALDEZ.

Subscribed and sworn to by the aforesaid parties, after exhibiting to me, the former his personal tax certificate, above described, and the latter exhibiting none, he being over sixty years of age, this second day of February, 1908.

(Signed) JUAN NEPOMUCENO.
Notary Public.

My commission expires December 31, 1908.

Approved:

(Signed) JULIO LLORENTE, *Judge.*

13 (Title of Court and Cause.)

Order.

I, Julio Llorente, Judge of the Court of First Instance of Tarlac, Fourth Judicial District, do hereby certify that the bill of exceptions herein filed is correct and contains all the evidence introduced and allowed at that trial of the above-entitled cause.

(Signed) JULIO LLORENTE,
Judge Fourth Judicial District.

Copy of the foregoing order was sent to the parties and the bill of exceptions is hereby transmitted to the Honorable Supreme Court, through the Clerk thereof, this 15th day of October, nineteen hundred and eight, to which I certify.

(Signed) T. BESA SOLITARIO,
Clerk of Court, Tarlac.

SUPREME COURT OF THE PHILIPPINE ISLANDS,
CLERK'S OFFICE.

Filed October 17, 1907.

(Signed) J. E. BLANCO, *Clerk.*

14 THE UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the Province of Tarlac.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila,
Plaintiff,
vs.
THE MUNICIPALITY OF VICTORIA, Defendant.

Appearances: Attorney Rohde for plaintiff and Attorney Felipe Buencamino for defendant.

Counsel for plaintiff, Mr. Rohde, introduced as his first witness Casimiro Tañedo Miguel.

CASIMIRO TAÑEDO MIGUEL, having been duly sworn, testified that he was sixty-seven years of age, a farmer by occupation and a native of Tarlac, Province of Tarlac.

Questions by Mr. ROHDE:

Q. Have you ever lived in the town of Victoria?
A. I live there at present.
Q. How long have you lived there?
A. Since the revolution.
Q. Have you known the church of the town of Victoria for many years?
A. Yes, sir.
Q. How many years?
A. About thirty years, less than forty years.
15 Q. Do you know the land known as the Plaza of the church of Victoria?
A. My knowledge extends back to the time the first parish-priest came to Victoria.
Q. The question is, Whether or not you know the land.
A. Yes, sir.
Q. Who was formerly the owner of the land?
A. My knowledge*d* extends back to the time the first priest came there—the priest who was in charge of the land.
Q. What year was that?
A. I do not remember.
Q. More or less?
A. Some forty years ago.
Q. Did your father ever live in or own any property in Victoria?
A. Yes, sir, he owned land there.
Q. Was your father in possession of that fund for any length of time?
A. Yes, sir, because the land where the church now stands was formerly a carabao corral.
Q. Who owned the corral?
A. It belonged to my deceased father.

By the COURT:

Q. You mean the land occupied by the church?

A. Yes, sir, all that field, including the corral, the gate and the field where the carabaos grazed.

Mr. ROHDE:

Q. Do you know whether or not your father ever donated that land to the church?

A. He ceded the land to the church, because my father was
16 the first founder of the town of Victoria, and for that reason the barrio was named San Vicente.

Q. For how many years did your father keep that carabao corral there?

A. I don't know. When I reached the age of reason the corral was already there and continued there until the town of Victoria was incorporated, and my father filled in the land where the church now stands.

Q. Can you name the streets which at present constitute the boundaries of that Plaza?

—. The present names of the streets I do not know, but I will show you that they are the four streets around the church through which the procession usually passed.

Q. The church and the convent stand almost in the center of the land, do they not?

A. I think they do.

Q. And how long did the parish priest of Victoria continue in the quiet and uninterrupted possession of that Plaza.

A. Up to the time of the revolution.

Q. How long before the revolution?

A. Until shortly before the revolution.

Q. That was about the year 1898, was it not?

A. To be sure, about 1896 or 1897.

Q. What is there in the Plaza now?

A. I think the market is there now, and some newly-built houses; also a school-house.

Mr. BUENCAMINO:

Q. You said that you were acquainted with the parish of Victoria?

A. Yes, sir, I did.

17 Q. What do you mean by the parish of Victoria?

A. The parish-priest, Father M. B.

Q. Then, in your opinion, the parish is the parish-priest?

A. The parish priest is all that I know.

Q. Then you don't know what the parish itself is?

A. Yes, the convent and the church.

Q. You said that you had lived in Victoria for about forty years, did you not?

A. I did not say that I had lived there but that I had knowledge that the priest had been in possession for about forty years. My deceased father is the one who lived there for many years.

Q. You had knowledge of the fact that the priest was in possession of the plaza, did you not?

A. From seeing him cultivating the land I judged that he was in possession.

Q. Do you mean to say that the priest bought the plaza?

A. I do not mean to say that he bought it.

Q. Do you mean to say that the priest acquired the plaza as a donation from some person?

A. Yes, sir.

Q. Who was that person?

A. When the town was founded my father ceded the land to the town, and the principal citizens of the town donated the land to the priest.

Q. According to your statement, then, your father donated the land to the town, and the principal citizens of the town in turn gave it to the priest?

A. Yes, sir.

18 Q. How do you know that the principal citizens of the town gave that land to the priest?

A. Because I saw it myself.

Q. Were you one of the principal citizens of that town?

A. Here in Tarlac, yes.

Q. Do you know whether the Gobernadorcillo of the town had any authority to donate public property, for instance the city hall, to the priest of the town, to the Pope or to anybody else?

A. Yes, sir.

Q. You mean as such Gobernadorcillo?

A. Not as Gobernadorcillo, but with the consent of the principal citizens of the town he could.

Q. Without even consulting His Majesty's Government?

A. I have always noticed that the principal citizens of the town, before making a requisition for a priest, would build the church and convent, and then the church authorities, if they deemed it convenient, would send a priest; and as the Commissioners of Victoria said that the people could support one they sent a priest and the principal citizens of the town turned everything over to him.

Q. Did you see that deed of transfer?

A. No, sir.

Q. Then, whence did you get that idea?

A. I was present when the principal citizens of Victoria turned the property over to him.

Q. When was that? Please state the date?

A. I don't remember, now.

Q. Who were the principal citizens of that town?

A. Those whom I can remember now were Captain Mariano Rigor and one Regino Rigor, Captain.

Q. That is all.

19 By Mr. ROHDE:

Q. Did your father donate that land to the principal citizens of the town, to be used as the church plaza?

A. Yes, sir.

Q. Was the cession by your father made at the same time that the principal citizens of the town ceded the land to the priest?

A. Some four or five years.

Q. But with the understanding that it was to be devoted to the use of the church?

Mr. BUENCAMINO: I object to the question, as leading.

The COURT: Objection sustained.

Mr. ROHDE: That is all.

Cross-examination.

By Mr. BUENCAMINO:

Q. You said that your father was formerly the owner of the land where the church now stands?

A. Yes, sir.

Q. You also said that he was the owner of the land of the plaza?

A. Yes, sir. This faced the carabao corral, and there were no people there at that time.

Q. What kind of title did your father have?

A. As the founder of that place.

Q. And who was born first—your father or the place?

A. The place was born first.

Q. And how was it possible that your father could have founded that place if the place was already in existence when your father was born?

The court warned counsel that he must not dispute with the witness.

Q. And is that all the title that your father had to the land in question?

A. Yes, sir.

Q. He had nothing more, did he?

A. Nothing more.

Q. Did he not buy the land from the Spanish Government?

A. No; he merely asked for permission to establish his corral there.

Q. That is all.

CIRILO VERGARA, Parish Priest of Victoria, Province of Tarlac and a resident thereof, having been duly sworn, testified as follows:

By Mr. ROHDE:

Q. How long have you been the parish priest of the town of Victoria?

A. Since the Revolution.

Q. In what year?

A. Since the year eighteen hundred and ninety-nine—about the month of May.

Q. When you took possession of the parish of Victoria, who occupied the church plaza?

A. When I arrived in Victoria, about that time, during the Revolution, the revolutionary government was in possession of the convent, and upon my arrival at Victoria I inquired of the revolutionary president himself about the church property, and he told me that this property was, first the church and second the convent and third the land belonging to the church.

Q. Were any other persons in possession of any part of the plaza or of the entire plaza?

21 A. No, sir.

Q. And did you take possession of the whole church plaza?

A. I did not take possession, because, as I have said before, when I arrived there the country was in a state of revolution, and that was what the residents of the town told me when I inquired about the church property.

Q. Were there any houses there?

A. No, sir.

Q. Can you give me the names of the streets which constitute the boundaries of the plaza?

A. To the best of my recollection—on the east, Calle San Ambrosio, formerly La paz; on the south, Calle Rizal, formerly Calle Real; on the west, Calle San Gabriel, formerly Gerona; and on the north, what was formerly Calle Pinac, now San Mariano.

Q. I will show you this plan marked Exhibit "A": can you tell me what it represents?

A. This is a plan of all the land belonging to the church, including the church itself and the trees.

Q. Who made that plan?

A. I made it myself.

Q. Are the measurements as shown on the plan correct?

A. Yes, sir, approximately correct.

Q. Are the names thereon shown correct?

A. Yes, sir.

Q. These dots on the plan—what do they represent?

A. They represent the trees that were planted by the former Spanish parish priests of the town of Victoria, and these dots around the land also represent almond trees, planted by the priests themselves.

22 Q. You refer to the green pencil-marks around the plaza?

A. Yes, sir.

Q. I now introduce this plan in evidence, and ask that the same be marked Exhibit "A."

Mr. BUENCAMINO: No objection.

The COURT: Let it be marked Exhibit "A."

Q. The buildings marked "convento" and "iglesia," within the plaza,—what are they?

A. They are the Catholic convent and church of Victoria.

Q. Do they occupy the same place as indicated on the plan, with reference to the plaza?

A. Yes, sir.

Q. Since what year have you been in possession of the plaza?

A. I was in possession of the entire plaza, but immediately after the inauguration of the new municipalities they took possession of all this property belonging to the church.

Q. Up to what year were you in possession of the entire plaza?

A. Up to the year nineteen hundred and one.

Q. And the municipality then commenced to build on the land of the plaza?

A. Yes, sir.

Q. Did you make any objection?

A. Yes, sir.

Q. And did they pay any attention to your objection?

A. They paid no attention.

Q. The almond trees around the plaza, were they planted in accordance with the general plan to encircle the plaza?

A. Yes, sir; they were planted all around the land belonging to the church.

Q. That is all.

23 Cross-examination:

By Mr. BUENCAMINO:

Q. You have stated that you went to Victoria as parish priest during the revolution. Now, as we have had two revolutions—one in eighteen hundred and ninety-six and the other in eighteen hundred and ninety-eight—, will you kindly specify to which of the two you refer?

A. I mean the revolution of eighteen hundred and ninety-eight—the last one.

Q. Prior to that date, Father, will you kindly tell me whether or not you were there as coadjutor of Victoria or as the parish priest?

A. Prior to that date I had never been in Victoria, either as coadjutor or as a parish priest.

Q. Then, my dear sir, how do you know that those trees were planted by the priests who preceded you? Was it by hearsay—from what others told you, was it not?

A. Because the principal citizens of Victoria have so stated to me.

I now ask the court that there be stricken from the record so much of the testimony of this witness as appears to be hearsay.

The COURT: Granted.

Q. You have also said, sir, that you were in possession of the plaza now here in dispute up to the year nineteen hundred and one, have you not?

A. Yes, sir.

Q. And when did you first enter into possession of the plaza?

A. Immediately after the revolutionists ran away and vacated the church property.

24 Q. Did you take possession then?

A. Yes, sir.

Q. On what date?

A. It was in eighteen hundred and ninety-nine or in nineteen

hundred, if I remember correctly. I arrived in Victoria about the middle of eighteen hundred and ninety-nine.

Q. Did the American forces enter Victoria?

A. Yes, sir.

Q. On what date, sir?

A. In the month of November, or thereabouts, in the year eighteen hundred and ninety-nine.

Q. When they entered the town where did they stay—did they stay at the convent?

A. Not immediately upon their arrival

Q. Did the Americans station any troops there for the protection of life and property?

A. When they first arrived they did not provide any protection for the town.

Q. Please state when they first furnished that protection?

A. I do not remember the date.

Q. Did the American authorities appoint a municipal presidente of the town, as it was customary, in order to protect the town?

A. Yes, sir—long afterward.

Q. Did you show to the military authorities the property that belonged to the church?

Mr. ROHDE: I object to the question, because counsel is too indefinite. Whether he showed them the property or not can have no bearing on this litigation.; It is a question perfectly incompetent.

25 The COURT: Objection overruled.

Q. Did you call the attention of the authorities to the existence of that property and to the fact that you had taken possession?

A. To the American authorities who came later to protect the town, yes sir, but to the municipal authorities appointed by them, no, sir.

Q. Did the Filipino authorities continue to use the convent and the plaza?

A. No, sir. Immediately after the American troops vacated the convent I moved in.

Q. That is all.

MARIANO RIGOR, fifty-three years of age and a resident of the municipality of Victoria, Province of Tarlac, having been duly sworn, testified as follows:

By Mr. ROHDE:

Q. Do you know the plaza of the church of Victoria?

A. Yes, sir.

Q. How long have you known it?

A. Since I attained the age of reason; I grew up there.

Q. And who planted the trees now in the church plaza?

A. The priests had them planted.

Q. And when you refer to the church plaza, do you mean the

land bounded by the four streets named Gerona, San Pablo, Pinac or La Paz and Calle Real or Rizal?

A. Yes, sir; but formerly the streets had other names.

Q. The plaza is a piece of improved land in the middle of which the convent and the church stand, is it not?

26 A. Yes, sir.

Q. Last year, was that plaza, or any part thereof, under cultivation?

A. At first, when the priests came there, they had some corn, rice, papaya and bananas planted there.

Q. All over the plaza or in only a part thereof?

A. About one-fourth of it was not planted.

Q. And what was there in that fourth part of the land?

A. At that time there was nothing there, but at present there are some trees which were planted by the priests.

Q. And those trees—how old are they?

A. They are not all of the same age.

Q. About when were those trees planted?

A. Some of them were planted in eighteen hundred and seventy-four.

Q. Do you know whether that is the same land where Vicente Tañedo formerly had a carabao corral, or have you no recollection of this?

A. I have been told so by others, for I was not there at that time.

Mr. BUENCAMINO: I ask that this witness's testimony be stricken out.

The COURT reserved its ruling on this point.

Q. Did the priests ever fence this plaza with anything other than trees?

A. Some of the priests fenced it in.

Q. To protect the crops?

A. Yes, sir; to protect the crops and the place where the horses were kept.

27 Q. Was it a corral?

A. Yes, sir.

Q. And during all the time that you can remember the priests were in possession of the plaza, were they not?

A. Yes, sir.

Q. Up to what year?

A. Since eighteen hundred and sixty-eight.

Q. But up to what year?

A. Up to the time of the revolution.

Q. Approximately what year was it—eighteen hundred and ninety-eight?

A. At the time of the revolution the priests left the town.

Q. Was it in eighteen hundred and ninety-six or eighteen hundred and ninety-eight?

A. I think it was in eighteen hundred and ninety-eight.

Q. Are there many trees on the plaza now, sir?

A. Many.

Q. Are there big trees?
A. Big.
Q. And these trees suggest a general plan * * *

Mr. BUENCAMINO: I object to the question, as leading.
Mr. ROHDE: I withdraw the question.

Q. That is all.

Cross-examination:

By Mr. BUENCAMINO:

Q. When was the town of Victoria first established? You say that you were born there.
A. I was not born there; I simply grew up there.
Q. Where were you born?
A. At Candon.
28 Q. When did your father remove to Victoria? Do you remember the year?
A. My parents told me that they removed to the town when it was incorporated.
Q. What was Victoria before it became a town, if you remember?
A. They told me that it wasn't a barrio but a place where a few houses were built, and was known as Canarum.
Q. When you arrived in Victoria was there a parish priest there?
A. No, sir.
Q. How many years afterward was it before you had the first parish priest—was it five years or ten years?
A. According to my judgment, I think it was fourteen years.
Q. And when you arrived in Victoria was the plaza already in existence?
A. I have already said that I didn't know anything about it then, but was merely told, when I attained the age of reason.
Q. When you were fourteen years of age had you already attained the age of reason?
A. Yes, sir.
Q. Then, if you had been in Canarum for fourteen years before the first parish priests came there you must have attained the age of reason before that time.
A. I know when the priest arrived there.
Q. But was the plaza established before or after the priest arrived there?
A. Before; there was a plaza when the priest arrived there.
Q. Sir, you have stated that the priests planted the trees; did you ever see the priests plant the trees?
A. I never saw them plant the trees themselves, but they had others to plant them for them.
29 Q. And those who planted the trees had nothing to do with the municipal government, had they
A. Some of them did; others did not.
Q. Have the people or the municipality ever used that plaza for public celebrations?

A. All public celebrations were held there, but under the control of the priests.

Q. How do you know that it was under the control of the priests?

A. Why should I not know? When I was Captain, or Cabeza de Berangay (head tribesman) that was the custom.

Q. Do you not know that a certain governor once went there and ordered the fence made by the priests torn down?

A. Yes, sir, you are right. They were going to build a market at that place; the priests objected to it and closed the gate; the governor then went there and ordered the fence removed, and the priest had the fence repaired again and it was not very long afterward before an order was received by the Captain, and we were directed to go to Tarlac and report to the Prosecuting Attorney. The Prosecuting Attorney asked us who was the owner of the plaza, and we told him that it belonged to the church; and after we told him that the plaza belonged to the church the idea of establishing a market there was abandoned.

Q. Why did the Governor order the fence removed?

Mr. ROHDE: I object to the question, because the witness can have no knowledge of that.

The COURT: Objection sustained.

Q. The Governor went to Victoria at the request of some of the prominent citizens of the town, did he not?

Mr. ROHDE: I object to the question, because the only one who knows that is the Governor who gave the order.

The COURT: Objection overruled.

A. The principal citizens of the town did not send for him; I do not know why he went there.

Q. Then you do not know why the Governor went there, do you?

A. No, sir.

By Mr. ROHDE:

Q. Then, prior to the insurrection, the town always acknowledged that the plaza in question belonged to the church and to the parish?

A. Yes, sir.

Q. How long were you Municipal Captain of the town of Victoria?

A. Just one year.

Q. And Cabeza de Barangay (head tribesman)?

A. From eighteen hundred and seventy-four to eighteen hundred and ninety-four.

Q. That is all.

Cross-examination:

By Mr. BUENCAMINO:

Q. Why do you say that the town always recognized the priest as the owner of the plaza?

A. Not as the property of the priest but as the property of the church, and as the priest represented the church he also had control over the plaza.

Q. How do you know that it belonged to the church?

A. Because of the arrival there of the first parish-priest.

Q. Do you know whether or not the church ever bought that land?

31 A. It never bought it.

Q. Do you know whether or not it was donated to it by the Government?

A. It was donated by the town, as the Elders say.

Q. Do you know whether or not all land in the Philippines belonged to the Spanish Government?

A. I do not.

Q. Then, when you say that the land was donated you say so because in your opinion all the land in the Philippine Islands belonged to the inhabitants thereof—is that right?

A. I don't know that the people owned all the land of the Philippine Islands.

Q. Could you establish a town without the permission of the Spanish Government?

Mr. ROHDE: I object to the question, for it involves a point of law.

Mr. BUENCAMINO: I withdraw the question.

Q. That is all.

REGINO RIGOR, sixty-four years of age, a laborer by occupation and a resident of Victoria, Province of Tarlac, having been duly sworn, testified as follows:

By Mr. ROHDE:

Q. How long have you lived in Victoria?

A. I came from Ilocos; I don't remember the date when I removed to Victoria.

Q. Have you been Municipal Captain of the town of Victoria?

A. No, sir.

Q. Were you ever Cabeza de Barangay?

A. Yes, sir.

32 Q. When, approximately?

A. I think about forty years ago.

Q. Was there a parish priest in the town of Victoria at that time?

A. Yes, sir.

Q. When you were a cabeza de barangay, who was in possession and control of the plaza near the church?

A. I saw that the priest was in charge of it.

Q. Only the priest?

A. Yes, sir; he was the only priest there, and was in charge of everything.

Q. Did he cultivate part of the plaza?

A. All the land around the church.

Q. Who planted the trees around the church?

A. The priests.

Q. And the trees on the plaza—who planted them, or who had them planted?

A. They themselves (referring to the priests), because they were the ones in charge.

Q. Did the priests continue in the possession of the plaza during all that time up to the revolution against the Spaniards?

A. As I was then out on the farm, I cannot say whether the priests were then in possession or not.

Q. I mean, up to the time of the revolution. I don't mean after the revolution; I mean at the time that the revolution broke out?

A. That's just what I mean.

Q. But were you not then in town?

A. I was not.

33 Q. When did you leave the town?

A. I was living in a barrio.

Q. Until what year were the priests in possession of the plaza, as far as you know?

A. That's exactly what I don't know.

Q. Who was in possession of the plaza in eighteen hundred and ninety; that is, eighteen or twenty years ago?

A. I used to see the priests there.

Q. And there was nobody else occupying the plaza?

A. Yes, the successive priests.

Q. Yes, but were there any houses or buildings on the plaza?

A. Not all over the plaza, no, sir.

Q. That is all.

Cross-examination:

Mr. BUENCAMINO:

Q. Do you know who owns the plaza here in dispute?

A. With reference to that plaza, the only owner I know of is the church.

Q. Were you councilman of the municipality of Victoria in July, nineteen hundred and five?

A. Yes, sir.

Q. Do you remember having attended a meeting of the council on the 17th of July, nineteen hundred and five?

A. Yes, sir.

Q. Do you remember that at that meeting it was resolved unanimously that the plaza now in controversy was the property of the municipality?

A. Yes, that was the object of the meeting called by our president.

34 Q. And did you sign the minutes of that session?

A. Yes, sir. At that meeting all that our president said was that "the object of this meeting relates to the action of the former

councilmen of this city, with reference to the plaza," and he asked me whether I agreed to that and I told him I did not because I knew that the plaza belonged to the church and that the priest was the one in charge of it. The president then said, "If you are alone you can't do anything; you better sign here." My colleagues were of opinion that the plaza belonged to the municipality, but I dissented, and being alone was unable to do anything.

Q. And did you sign?

A. Yes, sir.

Q. Did you note your objection?

A. I told the Secretary to make a record of it, but I don't know whether he did it or not, as I do not understand Spanish.

Q. But you have said that you signed the minutes, have you not?

A. When I signed the paper they told me that "your objections have been duly noted in the minutes." That's what they told me.

Q. You say that the plaza belonged to the church?

A. Yes, sir.

Q. Do you know whether or not the church bought the land?

A. I don't know whether or not the church ever bought the land, but I do know that it belongs to the church, because the priest was always in control.

Q. Did the people of the town also use the plaza for public celebrations?

A. When the day of our patron saint came round we cele-
35 brated the feast there with shows and fireworks and other displays, according to the local custom. I, as Captain of the town, and the other prominent citizens, would report to the priest and state to him our desire whenever we wanted to use the plaza, and the priest would say "All right, the plaza is big enough."

Q. Which was established first—the church or the town?

A. The town was established first, and afterward the church.

Q. When the town was established, was the church also erected?

A. The plaza was already in existence, and the people built the convent and the town.

Q. Then you mean to say that the church was built after the plaza was laid out?

A. Yes, sir.

Q. And who used the plaza before the church was built?

A. We, the people of the town, did.

Q. Then it was a public plaza, was it not?

A. For the priest—that is to say, for Holy Church.

Q. But you have just said that there was no church there at that time?

A. Before the church was built the people would pass through there and use the place for pasturing carabaos and for other purposes.

Q. The plaza did not belong, as a matter of fact, to Peter or to John, but to the whole town, did it not?

A. The land belonged to the people until the priests arrived.

Q. Do you know how the ownership of the plaza was transferred to the church?

A. When the first priest arrived there the principal citizens of the town turned the plaza over to him; also the church and convent, and after the land was delivered to the priest, he, the priest, ordered
36 the same plowed and sown in rice, wheat, papaya and other fruits.

Q. How old are you now?

A. Sixty-four years old.

Q. When did that delivery take place—that is, the delivery of the land by the prominent citizens of the town, to the priest,—in what year was it?

A. I can't remember now, because this happened long ago, and I never made any memorandum of it.

Q. Were you a child then?

A. No, sir.

Q. How old were you?

A. I think I was about twenty years of age—over twenty years.

Q. When did the first priest arrive there—was it fifty or sixty years ago? Or how long ago?

A. My memory is that the first priest arrived there some forty years ago.

Q. Were you one of the principal citizens of the town at the time the priest arrived there?

A. Yes, sir.

Q. Were you a cabeza de barangay at that time?

A. I don't remember whether I was or not.

Q. Were you Gobernadorcillo (petty governor)?

A. No, sir, I became petty governor later.

Q. Then you don't know whether or not you were a cabeza de barangay at that time?

A. I do not.

Q. And why do you say that you were one of the principal citizens of the town when the first priest arrived?

37 A. I was not a principal citizen when the first priest, Father Buan, arrived there. I did not say that.

Q. When the first priest arrived there what were you?

A. I don't remember whether I was a cabeza de barangay or not.

Q. Then how do you know that the principal citizens of the town delivered the land to the first priest, if you were not one of such citizens?

A. Because I was present.

Q. How were you present?

A. Because the prominent citizens went to the convent and, together with the priest, walked along the street and through the plaza.

Q. Where were you living at the time—in the barrio or in town?

A. In town.

Q. And where do you live now?

A. In the barrio of Malasio.

Q. Can you mention the name of the governor who made the delivery at that time?

A. I don't remember.

Q. Do you remember the name of the lieutenant-governor?

A. The lieutenant-governor at the time was my grandfather, who is now dead.

Q. Was the delivery to the priest made only to give him control of the plaza or to transfer the ownership thereof to him?

A. I don't know anything about ownership; all that I know is that the prominent citizens said that they had delivered to the priest both the plaza and the church?

Q. Then you are unable to state to the court whether they actually transferred the ownership of the property or not?

38 A. I don't know, because I haven't seen any paper to that effect.

EUSEBIO NATIVIDAD, fifty years of age, Parish Priest of Tarlac, tarlac, having been duly sworn, testified as follows:

By Mr. ROHDE:

Q. Have you ever been parish priest of the town of Victoria?

A. No, sir.

Q. Do you know the town?

A. Yes, sir.

Q. Do you know the church and convent?

A. Yes, sir.

Q. Since when?

A. Since I became parish priest of Tarlac, and I have been here eighteen years and two months.

Q. Have you occasionally officiated in that town as a priest?

A. I used to go there occasionally.

Q. You say that you have known the church and plaza for about eighteen years, do you not?

A. Yes, sir.

Q. Who has been in possession of the plaza during those eighteen years? The priests of the town, to the exclusion of all others?

A. Yes, sir.

Q. Up to what year?

A. Up to the time of the revolution, when the friars were compelled to leave the town.

Q. That is all.

39 Mr. BUENCAMINO: I have no further questions to ask.

Mr. ROHDE: The plaintiff rests.

Mr. BUENCAMINO: In the first place, I will introduce in evidence this document, which is a written report by the president and municipal council of Victoria, giving a history of the town of Victoria, as proof of events as they have transpired.

Mr. ROHDE: I object to the admission of this document in evidence, because it is not sworn to.

The COURT: Let it be admitted in evidence and marked Exhibit "I".

Mr. BUENCAMINO: I will introduce in evidence Exhibited marked "No. 2."

Mr. ROHDE: I have no objection.
The COURT: Exhibit No. 2 admitted.

Witnesses for the Defendant.

Mr. BUENCAMINO: I now introduce Fermin Tolentino, as witness for the defendant.

FERMIN TOLENTINO, sixty-eight years of age, a laborer by occupation and a resident of the municipality of Victoria, Province of Tarlac, having been first duly sworn, testified as follows:

By Mr. BUENCAMINO:

Q. Where were you born?
A. At Porac, municipality of Guagua.
Q. When did you remove to Victoria?
A. I came to Victoria when I was about fifteen years of age, as far as I can remember.
Q. When you first came to Victoria was it already a town?
A. It was then a barrio.
40 Q. And have you lived in the same place ever since?
A. Yes, sir, within the limits of the town.
Q. Without interruption—have you ever lived in any other place?
A. I have never left the place.
Q. Were you ever sentenced by any court of justice to a term of imprisonment?
A. Before God, No, sir.
Q. Do you remember when that barrio was converted into a town?
A. According to my recollection, that barrio was converted into a town some fifty years ago.
Q. When the place was converted into a town, was there a plaza there already?
A. No, sir.
Q. And when was the plaza laid out?
A. When the first Captain or petty governor was appointed.
Q. And at the time the petty governor was appointed was there already a church there?
A. Yes, sir.
Q. Was it a regular church or a chapel?
A. A church, where the people went to hear Mass.
Q. Was there a parish priest there?
A. No, sir, there was no permanent priest, but a Filipino priest would occasionally go there.
Q. You mean to say that it had not been as yet organized as a regular parish?
A. There was a church and the convent built by us, and then we petitioned for a priest to come to the convent.
Q. And when was the plaza founded?
41 A. When the successor to the Captain of the town was appointed the plaza was established.

Q. Was the plaza established as the property of the church or as the property of the town?

Mr. ROHDE: You are asking the witness about a proposition of law and not about a question of fact.

Mr. BUENCAMINO: I withdraw the question, and will ask the witness whether the plaza was bought by the church?

A. No, sir.

Q. Was the plaza donated to the church by the people?

A. No, sir.

Q. Who had the use of the plaza?

A. The people of the town.

Q. Does the plaza belong to the priest or to the town?

A. To the town.

Q. Does it belong to the church?

A. No, sir.

Q. Do you know who planted the trees now growing on the plaza?

A. Yes, sir; I was appointed by the Captain of the town to watch the men who were planting those trees, because I was at that time an official of the Government.

Q. Who ordered those trees planted?

A. The Captain of the town.

Q. Did he order them planted?

A. Yes, sir.

Q. Have the people of the town ever used that plaza for public celebrations, such as dramatic plays, fireworks, et cetera?

A. Yes, sir. All celebrations by the town took place there.

Q. Do you know whether a permit was first obtained for
42 that purpose?

A. The people never asked for such permission—it all depended on the Captain of the town.

Q. How do you know that?

A. Because I lived next door to the president's house; so, I knew all about it.

Q. Were you ever a member of the municipal council?

A. Yes, sir; I was appointed a sort of shepherd of the cows and carabaos, and I was always there

Q. And whose were those cows and carabaos?

A. There were no cows at all: I say that merely to illustrate: I was the head tribesman.

Q. Do you mean to say that you were a shepherd or that you were a cabeza de barangay (head tribesman)?

A. I mean to say that I was a cabeza de barangay.

Q. And as such cabeza de barangay you knew that no permission from the priest was necessary in order to use the square or plaza?

A. It was not necessary.

Q. That is all.

Redirect examination.

By Mr. ROHDE:

Q. Do you remember who it was that sowed rice in the plaza?
A. Yes, sir.
Q. Who was it?
A. The people of the town.
Q. How was that? Did some of the residents of the town have a piece of land there where they grew rice, or was that rice
43 grown by order of the priest?
A. The rice was grown there with the knowledge and consent of the Captain of the town.
Q. And who gathered the crop?
A. The acolytes.
Q. That is all.

IGNACIO VILLARTA, a native of Candon, Ilocos Sur, and a resident of Victoria, Province of Tarlac, having been first duly sworn, testified as follows:

By Mr. BUENCAMINO:

Q. When did you remove to Victoria?
A. Before there was a town captain there.
Q. Was it already a town, or merely a barrio, when you went there?
A. It was already a town, and this was when the Captain took possession.
Q. Was there a parish priest there at that time?
A. No, sir.
Q. Do you remember whether the present plaza was then in existence?
A. During the time of the first captain there was as yet no plaza there, and it was during the incumbency of his successor that the plaza was laid out.
Q. How many years elapsed between the end of the first captaincy and the appointment of the successor?
A. One year, because town Captain *were* appointed every year.
Q. Then the plaza was established during the incumbency of the second petty governor?
A. Yes, sir.
44 Q. Was there a parish priest there at the time?
A. Not at that time.
Q. Had the church already been built?
A. No, sir.
Q. But was there a chapel?
A. Yes, sir, a chapel was built when the plaza of the town was laid out.
Q. And the plaza was turned over to the church, was it?
A. No, sir.
Q. Did the plaza belong to the town?
A. Yes, sir.

Q. Always and up to the present time?
A. Yes, sir.
Q. Have you ever been a prominent citizen of the town,—that is to say, a petty governor or a cabeza de barangay, of the town of Victoria?
A. I have never been a captain or a cabeza de barangay for a long time.
Q. Did the town use that plaza for public festivities whenever it wanted to do so?
A. The plaza was established for the celebration of town feasts.
Q. Was it necessary to secure the permission of the priest?
A. No, sir.
Q. Could the people go through the plaza without asking permission from the priests?
A. Yes, sir, because the priests never had anything to do with the plaza, so far as I know.
Q. Do you know the trees that are growing on the plaza?
A. Yes, sir.
45 Q. Who ordered those trees planted?
A. The petty governors would call a meeting of the cabezas de barangay, and direct them to plant the trees on the plaza, so as to provide shade for the market peddlers.
Q. Were there any shops there?
A. Yes, sir.
Q. That is all.

Mr. ROHDE: I have no further questions.

MARTIN CAITA, a native of Candon, Province of Ilocos Sur, and a resident of Victoria, Province of Tarlac, having been first duly sworn, testified as follows:

By Mr. BUENCAMINO:

Q. How long have you lived in Victoria?
A. Since the town was organized.
Q. Have you ever been cabeza de barangay, lieutenant—or petty—governor of the town of Victoria?
A. I have been a cabeza de barangay.
Q. For many years or just for one year?
A. For more than ten years.
Q. Which was established first—the parish or the town?
A. The town was established first, and then we built the church.
Q. When the town was established was the plaza also founded?
A. When the captain of the town took possession the plaza was laid out. He was the captain who surveyed it.
Q. Was the plaza turned over to the church?
A. No, sir.
Q. Did the plaza belong to the town?
A. Yes, sir.
Q. You mean, up to the present time?
46 A. Yes, sir.
Q. Have the people of the town always used that plaza, for public festivities?

A. Yes, sir; public celebrations were held there, and there were shops there.

Q. Did you know the last Spanish priest, named Father Ornia, of the town of Victoria?

A. Yes, sir, Father Carpo.

Q. Do you know whether that priest ever claimed any right to the possession of that plaza?

A. I was told that he surveyed the plaza.

Q. Do you know whether that priest ever claimed any title to the plaza—please answer my question?

A. We would not have permitted it.

Q. The priests that preceded him—did they ever claim to be the owners of that plaza?

A. No, sir, no priests ever did.

Q. And the trees on the plaza—who planted them?

A. We did.

Q. How—in what manner? By whose order? By direction of the captain?

A. By order of the captain of the town.

(TRANSLATOR'S NOTE.—Some testimony apparently omitted here by Spanish stenographer.)

Q. Whom do you mean when you say "they": who are "they"? Do you mean the cabezas de barangay?

A. We all held a meeting, the captain of the town being present, for the purpose of discussing the planting of those trees.

Q. That is all.

47 Cross-examination.

By Mr. ROHDE:

Q. You occasionally go to mass in that church, do you not?

A. I have not been in that church since the Filipino church was built.

MARIANO RICOR, sixty-nine years of age, a labor- and a resident of the town of Victoria, Province of Tarlac, having been duly sworn, testified as follows:

By Mr. BUENCAMINO:

Q. Where were you born, and when did you remove to Victoria?

A. I was born in Ilocos, and I do not now remember when I removed to the town of Victoira, but I think I was about seventeen years of age.

Q. Do you know the plaza here in dispute?

A. Yes, sir.

Q. To whom does that plaza belong, if you know?

A. To the town, because the town established it.

Q. Were you a principal citizen of that town—a cabeza de barangay or petty-governor of the town of Victoria.

A. Yes, sir, I was cabeza de barangay.

Q. For how long?

A. For eight years.
Q. And the plaza has always belonged to the town, has it not?
A. Yes, sir.
Q. And it has existed now for more than forty years, has it not?
A. When the plaza was surveyed the matter was reported to the captain of the town.
48 Q. How long ago was that?
A. About fifty-five years ago.
Q. And has the town always used that plaza for its own purposes and for public celebrations?
A. Yes, sir; whenever we had any celebrations they took place in the plaza—such as dramatic plays, greased poles, and other forms of recreation.
Q. And did you every time first secure the permission of the parish-priest?
A. No, sir.
Q. Do you know whether or not there are any trees now growing on the plaza?
A. There were no trees there until the Captain of the town ordered them planted.
Q. Whom did he order to plant them?
A. The policemen.

Q. That is all.

Cross-examination.

By Mr. ROHDE:

Q. You belong to the Filipino Independent Church, do you not, sir?
A. Yes, sir.
Q. Do you remember when the plaza was sown in rice, corn and wheat?
A. Yes, sir, I remember.
Q. Who reaped the harvest of wheat, rice and corn?
A. Father Mariano.
Q. When the town turned the plaza over to the Padre—do you remember the fact of the plaza being turned over to the padre?
A. It wasn't turned over.

Q. That is all.

49 PEDRO MARIANO, thirty-five years of age, Municipal President of Victoria and a resident of the said town, having been first duly sworn, testified as follows:

By Mr. BUENCAMINO:

Q. Do you know the plaza here in dispute?
A. Yes, sir.
Q. You have retained me to defend the title of the municipality to that plaza, have you not?
A. Yes, sir.

Q. Have you been duly authorized to do so by the municipal council?

A. Yes, sir.

Q. Has the municipal council ever met for the purpose of considering the question as to whether the plaza here in dispute is a public square or is private property?

A. Yes, sir.

Q. Was that during your incumbency or before that time?

A. Long before my time; it was in 1901.

Q. Did the municipality allow everybody to use the plaza of the town, without regard to religion or whether the persons belonged to the Filipino Independent Church or to the Roman Catholic Church,—that is, whatever their religious faith might be?

A. Not now, sir.

Q. And formerly?

A. Formerly the Filipino Independent Church was built but now the Roman Catholic Church stands there.

Q. My question is, Whether the municipality had prohibited the entrance to that plaza or whether the plaza belonged to the public?

50 A. The people are permitted to enter the plaza, because they have first secured the authority of the municipal council.

Q. Who asked for such permission or authority?

A. Both the priest of the Roman Catholic Church and the priest of the Filipino Independent Church.

Q. Has the municipal government ever made any discrimination in favor of any particular church?

A. No, sir.

Q. Have they been treated with equal consideration?

A. Yes, sir.

Q. How long has the municipality been in possession of that plaza?

A. According to the records which I have seen in the president's office, when I took possession, since the year eighteen hundred and fifty-five.

Q. Prior to the insurrection of eighteen hundred and ninety-eight did you live in the town of Victoria?

A. Yes, sir.

Q. Were you then over fourteen years of age?

A. Yes, sir.

Q. Did you then see that plaza?

A. Yes, sir.

Q. Who was in control of the plaza?

A. The municipality.

Q. Do you mean to say the whole municipality or the municipal council, or the town?

A. I mean the tribunal, that is to say, the municipal council.

Q. Were there any organized municipalities prior to the Revolution?

51 A. Yes, sir, there were.

Q. That is all.

Cross-examination.

By Mr. ROHDE:

Q. You say that when you took charge of the presidencia of the town you found documents which showed that the municipality had been in possession of the plaza since the year eighteen hundred and fifty-five. What documents are those to which you refer?

A. I refer to the annual report of my predecessors.

Q. Referring to that document upon which you base your statement, I would like to know the date of that particular report and the form in which it appears?

A. It refers to the year ninety-four?

Q. Do you mean the year ninety-four?

A. Yes, sir, the year nineteen hundred and four.

Q. You came across a report which was written in the year nineteen hundred and four?

A. Yes, sir, but I was unable to bring it with me.

Q. Did the municipality use the whole of the plaza bounded by the four streets, sir?

A. The municipality did not use it but owned it.

Q. The whole plaza?

A. Yes, sir.

Q. Also the church?

A. Not the church.

Q. But the whole plaza, up to the wall of the church?

A. The site where the church stands is separated from the land owned by the municipality.

52 Q. Where does the property of the church begin and where does the land of the municipality end?

A. The land where the church stands belongs to the church.

Q. And all the land which is not occupied by the church and convent belongs to the municipality, is that it?

A. Yes, sir.

Q. That is all.

Mr. BUENCAMINO: Defendant rests.

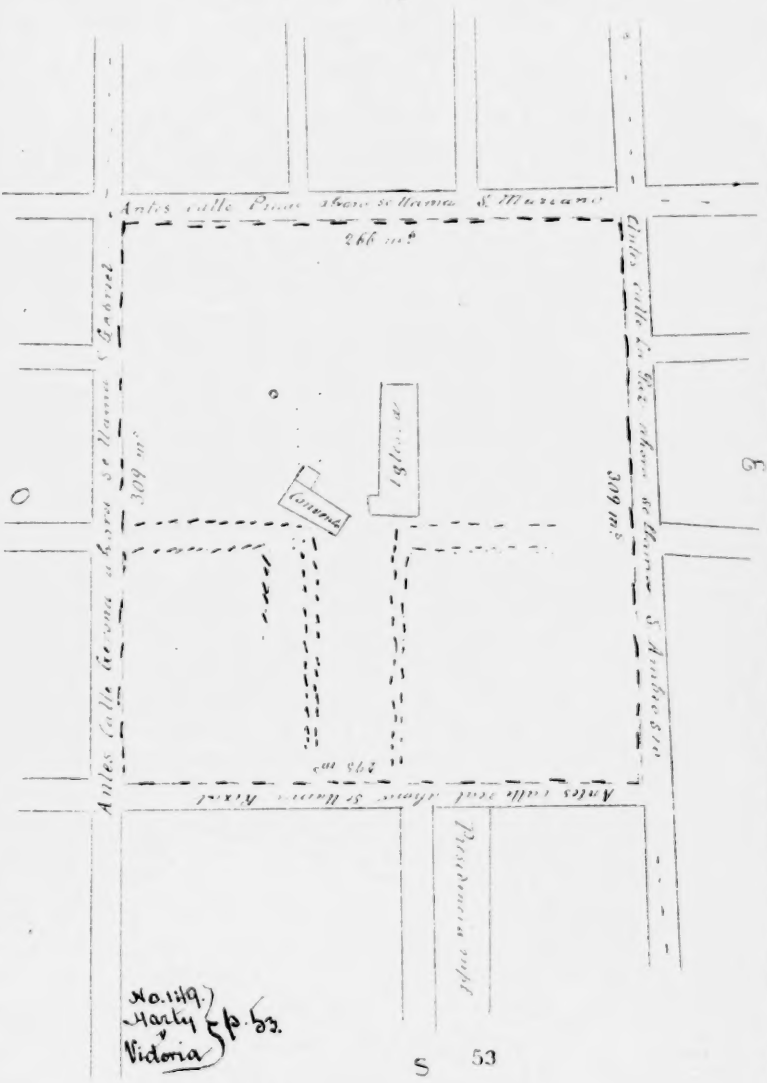
(Counsel for plaintiff and defendant then made their oral arguments and the trial was closed.)

I certify that the foregoing is a true and correct transcript of the stenographic notes taken by me at the trial of the above entitled case.

Tarlac, Tarlac, March 20, 1908.

(Signed) BENITO DE RAZON,
Stenographer and Interpreter, Court Fourth Judicial District.

(Here follows diagram marked p. 53.)



No. 119.
Harty 5 p. 52.
Victoria

54 EXHIBIT "I."

Annual Report of the Municipality of Victoria, Province of Tarlac, for the Year Nineteen Hundred and Six, as Required by Section 18, Paragraph N, of the Municipal Code.

General Description of the Municipality.

The town of Victoria was organized as a civil town on the 28th of March, eighteen hundred and fifty-five, by virtue of a superior order, its former name as a barrio being that of Canarum, and it belonged to the town of Tarlac, then within the Province of Pampanga. Its present boundaries are as follows:

On the north, starting at a point common to the three towns of Gerona, Tarlac and Victoria, and then on a straight line to the eastern boundary of the barrio of Espinosa, and from that point to a place called Naya, on the western part of the barrio of Balbaloto, which leads to Susubaen, according to the decree of the Supreme Government, of the 20th of May, eighteen hundred and sixty-two, and from that point to the mouth of the river Binituan, and thence on a straight line to the estuary named Badoc; on the east, commencing at a point on the estuary of Badoc, on a straight line to the river Bulaquid, according to a decree of the Supreme Government, of the 16th of June, eighteen hundred and seventy-nine, and from this point, following the course of the water, to the river Chico; on the west and south, starting at a point common to the three towns of Gerona, Tarlac and Victoria, which was fixed in the year eighteen hundred and sixty-two, at the place known as Parsuliñgan, the boundary-line follows a straight course to the middle of the line joining the church of this town of Victoria and Tarlac, which said point is on the northern extremity of the
55 barrio of Balibago, at two hundred meters from the highway. From this point the boundary is represented by a perpendicular line to the boundary-line between the two towns; thence following in a southeasterly direction across the road from Tarlac to Matayumtayum, at a place called Calangao. At this point the boundary-line changes its course to the east, crossing the highway leading to La Paz, six hundred meters south of the barrio of Matayumtayum, and thence in a direct line to the river Chico, in Pampanga province, stopping at a place called Bitucang-Manoc, where the river twice changes its course, the place taking its name from this peculiarity of the river, according to a decree of the Supreme Government, of the 8th of January, eighteen hundred and ninety-two.

Nature of the Land: Adapted to the cultivation of rice, sugarcane, corn, and other cereals and tubers.

Number of Barrios and Districts: Is composed of twenty-one barrios, divided into eleven districts, which form the jurisdiction of this municipality.

Number of Inhabitants: Sixteen thousand.

Number of Qualified Electors: One hundred and twenty-seven.

Languages Spoken: Castilian, English, Ilocano, Pampango and Tagalo.

Character of the People: Law-abiding and of good and philanthropic customs.

General Description of its Resources: Agriculture. The agricultural region of this municipality is adapted to the cultivation of all kinds of cereals, leguminous fruits and tubers, and of all kinds of garden produce, there being in addition thereto a large variety of fruit-bearing trees.

Although agriculture in this region is not very far advanced or developed, for the lack of work-animals, which constitute
56 the only means employed by the residents of the town for the tillage of their fields, and the lack also of sufficient capital for the development of its resources, the crop for this year has been one hundred and twenty per cent. greater than that of any previous year, particularly the rice crop. There is also a very noticeable effort on the part of the people to plant all kinds of truck-garden produce, either for their own consumption or for sale in the public market.

Commerce: The principal trade of this municipality is in rice, and this year promises to be greater than any previous year, judging from the large crops that have been grown in this region and in the adjoining country.

Three Chinese and some four natives are engaged in the purchase and sale of these products, with money borrowed from or advanced by persons of other provinces and of Manila.

The amount of rice exported to Manila during this year is estimated at eighty thousand cavans.

Industry: The industries of this region are not so far advanced as those of other towns. There are only a few small industries, such as pottery-making, the manufacture of hats used by the common laborers, the manufacture of agricultural implements, such as plows, et cetera; also, the manufacture of cloth, like that now manufactured in the Ilocano provinces, and the manufacture of the wine called Basy.

Forestry: There exists in the woods of this municipality a certain amount of timber adapted to the construction of houses, but it is of a very inferior quality.

Minerals: Up to date, no minerals of any kind have been discovered in this region.

Cattle: There exist now two thousand carabao, used for
57 agricultural purposes, and a few dozens of cattle, and as many horses, but most of the residents of the municipality raise pigs and chickens. There are also a few hundred of goats and some sheep.

Public Order: Although no disorder that would be worthy of mention has occurred during this year, I desire to call attention to the fact that the inhabitants of this municipality have observed a very good conduct and that they are law-abiding people and comply strictly with the ordinances promulgated by the honorable

municipal council, especially those relating to good discipline and behavior of the police charged with the preservation of public order within the town proper as well as in the barrios. The system of patrols organized by the police has insured complete tranquillity within the jurisdiction of this municipality. Although this year has passed without any untoward event affecting the public order, I cannot fail to say something here about the critical condition of the lieutenants of the barrios, who lack the necessary personnel to assist them in the discharge of their duties. The municipal code does not authorize this municipality to appoint anyone to assist such lieutenants, who have to attend to everything personally, on account of the lack of personnel as aforesaid, thus acting both as master and servant. This is especially true in cases of emergency. I would recommend that the muncipal code be amended so as to provide for this deficiency.

Untoward events: Two fires have taken place, two Chinese having died as a result thereof. The first one took place on the 11th of May of this year, at six o'clock P. M., a Chinaman by the name of Tan Juaco, a resident of this town, having been burned to death. This fire coincided with some shots that were fired from the outside of the town, apparently by a band of brigands that passed through this municipality. The second fire took place on the 15th of December, at four o'clock in the afternoon, another Chinaman, by the name of José Gomayco, also being burned to death.

58

There were one hundred and six judgments entered by the justice of the peace and seventy by the municipal president.

There is a municipal building of strong materials, and a school-building of light materials; also six school-buildings, of light materials, in the barrios of Calibungan, Mañgologo, Balayang, Palac-Palac, Bantog, Baculong, all of which school-houses have been built by the residents of the respective barrios.

Children who have attended school: Six hundred and sixty-six.

Children who now attend school: Five hundred and ninety-three.

Revenues of the municipality for the year nineteen hundred and six, including the balance from the previous year nineteen hundred and five, P13,622.59. Disbursements during the year nineteen hundred and six, P11,535.69. Balance, P2,086.90.

For the development of commerce and industry in this municipality it would be wise to dredge and improve the river, which has its source in Lake Canarum of this municipality, down to the river Chico of the town of La Paz. This river is navigable in the Rainy Season *by* not in the Dry Season. The advantages that would be derived from such an improvement need not be dilated upon.

Municipality of Victoria, December 31, 1906.

(Signed) GERONIMO GELASIO,
Municipal President.

59 EXHIBIT NO. 2.

I, Cirilo Vergara, Filipino Secular Presbyter of this Archbishopric and Vicar of the northern district of Nueva Ecija, Parish Priest of this town of Victoria, Province of Tarlac, do hereby certify that on page 2 of the Registry of Baptisms of this parish the following entry appears:

On the fifth of January, eighteen hundred and sixty-eight, I, the undersigned parish-priest of this town of Victoria, did solemnly baptize and anoint with the holy oils, at this church under my charge, Silvestre, a child six days old, the legitimate son, in lawful wedlock begotten, of Martin and Juana Rigor, his paternal grandparents being Sinforoso Gayla and Estefania Bernabe, of the barrio of Adriano Gurospe. Pablo Vianio was duly advised of the spiritual relationship and obligations by him contracted.

In witness whereof, I sign these presents.

(Signed) MARIANO BUAN.

The foregoing is a true and correct copy of the original entry to which it refers.

Parish house of Victoria, Tarlac, this 17th day of March, nineteen hundred and eight.

(Signed) CIRILO VERGARA,
Presbyter.

60 On October 17, nineteen hundred and eight, the case was duly filed and docketed in the Supreme Court of the Philippine Islands, and on the third day of December appellant filed his brief, accompanied by the following assignment of errors.

"The court erred in holding that the town of Victoria was formerly the owner of the land in question and subsequently transferred the same to the parish, of the said town, of the Roman Catholic Church.

"The court erred in finding that the occupation and possession of the land in question by the municipality of Victoria dates back over forty years.

"The court erred in finding that in nineteen hundred and one the Municipality of Victoria occupied the said land by its own authority, without the consent of plaintiff."

On the 23rd day of December, nineteen hundred and eight, the appellee filed his brief, a translation of which, at his express request, is included herein, as follows:

(Title of Court and Cause.)

Counsel for appellant at the beginning of his brief says:

"In this action plaintiff prayed the court below to enter judgment declaring that the land known as the public plaza of the town of Victoria belongs to the parish of the said town of Victoria."

The foregoing statement is not correct, as may be seen by reference to Paragraph 4 of the complaint, wherein the land in controversy is designated as the plaza of the Church of Victoria.

Appellant quotes in his brief Law 15, title 5, Partida 5, of the Spanish Codes, Vol. III, page 597, which contains a
61 prohibition against the alienation of public squares, et cetera. Appellant also relies on Section 334 of the Civil Code, as confirming the said prohibition against the alienation of public squares, et cetera. We do not find such prohibition in the Article cited by counsel. The question at issue here is a question of law, and in our opinion the judgment of the trial court is fully supported by the evidence. The reasoning contained in the decision of the court below is conclusive.

The defendant municipality does not claim any right to the buildings; it seems also that it does not claim any right to the piece of land upon which the said buildings immediately stand, but with the exception of the two parcels thus occupied by the buildings the whole tract of land bounded by the four streets is, according to counsel's contention, the property of the municipality of Victoria.

This claim is entirely untenable, because of the absurd result that would follow. If all the land, with the exception of the parcels immediately occupied by the buildings, belongs to the municipality, then the parish would not have any access to or egress from the church and convent.

As stated in the judgment of the trial court, the trees on the land and the location of the church and convent clearly indicate that the land and buildings constitute one whole piece of property.

It cannot be said that it has been fully proven that the land in question was formerly the public square of the town of Victoria, nor do we affirm that the land has not been the public square of Victoria. But, whether or not it has been the public plaza of Victoria, it is certain that during the last forty years it has been the land of the parish of Victoria, occupied and used by it.

62 The Supreme Court, in the case of Barlin vs. Ramirez, said:

"Whether this ecclesiastical property originally belonged to the State, or to any Department thereof, the fact is that, it having been donated, it became the property of the Roman Catholic Church, which has since then been in peaceful possession of the same."

If the land in question was once the public square of the town of Victoria, then it must be presumed that it was donated to the church, notwithstanding the fact that we have been unable to prove such transfer or donation by a written instrument.

In Lawson on Presumptive Evidence many cases are cited in which the tribunals have declared that from a possession of forty years a transfer or donation must be presumed. These presumptions are based on the principle laid down in Paragraph 11 of Section 334 of the Code of Civil Procedure.

Lawson on Presumptive Evidence, page 477 et seq.:

"That a person is the owner of property from exercising acts of ownership over it, or from common reputation of his ownership."

With reference to this presumption, the Supreme Court of Pennsylvania said:

"There is no absolute time prescribed by law on which to found this kind of presumption. Circumstances may require in different cases a different length of time. The circumstances in this case are very strong. The land lies in the midst of a very thickly settled country, where it is extremely valuable. The possession has been too notorious to be unknown to the officers of the late proprietaries. No kind of a possession can be more notorious than the building of a church and using it for public worship, and the occu-
63 pation of an adjoining piece of land for a burial ground. The remainder of the ground being uninclosed is no objection to the possession of the whole. It is the common usage to leave a piece uninclosed, for the free passage of the congregation and the accommodation of horses and carriages. Considering the object, the possession was complete; it was all that the nature of the case required, and the length of time (ninety years) is so great that it is not to be accounted for without supposing a grant, or the promise of a grant, which would establish a right of preemption."

Mather vs. Trinity Church, 8 Am. Dec., 663.

Wherefore, we ask the court to affirm the decree of the court below, with the costs of this instance against the appellant.

(Signed) HARTIGAN & ROHDE,
Counsel for Plaintiff and Appellee.

Thereafter, and on the 13th day of January, nineteen hundred and nine, the case was duly argued before the Supreme Court, there being present the Chief Justice and Justices Torres, Mapa, Johnson, Carson, Willard and Tracey.

On the 11th of March, nineteen hundred and nine, the Supreme Court rendered its decision, which is as follows:

64 (No. 5013. March 11, 1909.)

JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff and Appellee,

vs.

THE MUNICIPALITY OF VICTORIA, Province of Tarlac, Defendant and Appellant.

1. Church Property; Public "Plaza" can not be claimed by the Church. Where the record does not duly show that the Catholic Church or the parish of the town of Victoria is the owner of the large tract of land surrounding the church and the parish house of said town now forming a public plaza, and where the evidence at the trial shows that, prior to the conversion of the barrio then known as Canarum, into the town of Victoria, and before the construction of said church and parish house, such large tract of land was destined as a public plaza wherein public functions and religious seremonies were held, without hindrance or obstacle of any kind, there is no ground nor is there any legal reason for a declaration that said plaza belongs to the church, which plaza, on account of its being a parcel of land of public use, is not susceptible of prescription under articles 334 and 1936 of the Civil Code.

2. Id. Id. Evidence of Public Ownership.—The fact that some fruit trees and plants were set out in said plaza does not constitute an act of private ownership, but rather evidences the public use thereof, or perhaps the intention to improve and embellish the same for the benefit of the town's people.

Appeal from a Judgment of the Court of First Instance of Tarlac.

The facts are stated in the opinion of the Court.

F. Buencamino, for Appellant.
Tartigan & Rohde, for Appellee.

TORRES, *J.*:

On January 17, 1908, the representatives of Mgr. Jeremiah J. Harty, Archbishop of the Roman Catholic Church, as the legal administrator of all the properties and rights of the Catholic Church within the Archbishopric of Manila, filed a written com-
65 plaint in the Court of First Instance of Tarlac against the Municipality of Victoria, alleging that the parish of the said town had been and was then the owner of a parcel of land within the said municipality, known as the plaza of the church of Victoria; that it had acquired said parcel of land more than sixty years previously and had continued to possess the same ever since up to 1901, in which year the defendant municiaplity unlawfully and forcibly seized the said property, claiming to be entitled thereto and retain-

ing it to the present day. For the purposes of the complaint, a description of the metes and bounds of the land in question was set forth in the writing, and plaintiff prayed that, in view of what was therein set forth, judgment be entered holding that the said land was the property of the parish of Victoria, of the Roman Catholic Apostolic Church and that the defendant be ordered to vacate the same and to pay the costs of the action.

The defendant municipality answers the complaint through its attorney and offered a general denial of all the facts stated therein, especially of those numbered 4, 5, 6, and 7; in special defense it alleged that the plaza described in No. 4 of the complaint was founded when the sitio denominated Canarum, a barrio of the town of Tarlac was converted into a civil town in 1855; that the parish of Tarlac was established many years after the civil town, and that therefore it neither had then, nor has now any title to the plaza claimed, and that the complaint injured the defendant, and for this reason it prayed that judgment be entered absolving the
66 defendant of the complaint with costs and damages against the plaintiff.

Evidence was adduced by both parties, and the documents exhibited, to one of which the plaintiff objected, were made of record; the trial court rendered judgment on the 15th of June 1908, holding that the parish of Victoria of the Roman Catholic Apostolic Church, had a better right to the possession of the land described in the complaint, and sentenced the defendant to vacate the same and to pay the costs. To said judgment the representative of the defendant excepted and moved for a new trial on the ground that it was contrary to the weight of the evidence, and he notified the court that, if his motion were overruled, he would appeal to the Supreme Court. The motion for a new trial was overruled; the defendant excepted and presented the corresponding bill of exceptions which, after receipt of a copy had been acknowledged by the adverse party, was approved. On the first of September last, the appellant was ordered to furnish bond in the sum of P1000.00 to insure the fulfillment of the judgment in the event that it should be totally or partially affirmed. To said order the defendant excepted, but furnished the bond as directed by the Court.

In view of the nature of the action brought by the plaintiff against the municipality of Victoria, Province of Tarlac, the question that has arisen between the contending parties consists only in determining who is the owner and proprietor of the parcel of land that surrounds the parish church of the said town and which is called the public plaza of the same.
67 Art. 339 of the Civil Code reads:

Property of public ownership is:

1. That destined to the public use, such as roads, canals, rivers, torrents, ports, and bridges constructed by the State, and banks, shores, roadsteads and that of similar character.

Art. 344 of said code also reads:

Property for public use in provinces and in towns comprises the provincial and town roads, the squares, streets, fountains, and pub-

lic waters, the promenades, and public works of general service supported by the said towns or provinces.

From the evidence presented by both parties it appears that the town of Victoria, which was formerly only a barrio of the town of Tarlac and known as Canarum, was converted into a town in 1855, and named Victoria; to this end they must have laid out the streets and the plaza of the town, in the center of which was situated the church and parish house from the commencement, and at the expiration of about twelve years the parish of said town was constituted and the priest who was to perform the office of curate was appointed; that from the very begin-ing the large tract of land that surrounds the church and the parish house was known as a public plaza, destined to the use of all the residents of the recently founded town; public performances and religious processions were held thereon without hindrance either on the part of the local authorities or of the curate of said town.

It must be assumed that the principal residents of the old barrio, being interested in the conversion of the barrio into a civil town, arranged in such a way that the barrio, as the center of the future
town which was subsequently called Victoria, should have
68 streets and a public plaza with its church and parish house,
and also a tribunal or building destined for the use of the municipality and the local official at that time called the gobernadorcillo and later on capitan municipal, as has occurred in the foundation of all the towns in these islands, under the old administrative laws.

It may be true that the father of the witness Casimiro Tañedo, who owned the space of land where the church and parish house were erected, had voluntarily donated it to the Catholic Church, the only one known at the time, but proper proof is lacking that the donation affirmed by the said Tañedo comprehended the whole of the large tract which at the present time constitutes the plaza of the town.

It is a custom observed by all the towns established administratively in these Islands under the old Laws of the Indies, that on their creation, a certain amount of land was always reserved for plazas, commons, and special and communal property, and as it is unquestionable that the said large space of land was left vacant in the center of *of* the town of Victoria when it was constituted as a civil town, more than twelve years prior to the appointment of a permanent curate therein, there are good grounds to suppose that the late Vicente Tañedo donated the land now occupied by the church and parish house in said municipality for religious purposes, or to the church, but not to the parish curate, because at the time there was no curate at the new town of Victoria.

Even though all the remaining space of land which now forms the great plaza of the town of Victoria had been owned by the said
Tañedo, it must be presumed that he waived his rights
69 thereto for the benefit of the townspeople, since from the
creation or establishment of the town, down to the present day, all the residents, including the curate of said town, have en-

joyed the free use of said plaza; it has not been satisfactorily shown that the municipality or the principales of the town of Victoria had donated the whole of said land to the curate of Victoria or to the Catholic Church as alleged, nor could it have been so donated, it being a public plaza destined to public use and was not of private ownership or patrimony of the town of Victoria, or of the Province of Tarlac.

It should be noted that, among other things, plazas destined to the public use are not subject to prescription. (Art. 1936, Civil Code).

That both the curates and the Gobernadorcillos of the said town procured fruit trees and plants to be set out in the plaza, does not constitute an act of private ownership, but evidences the public use thereof or perhaps the intention to improve and embellish the said plaza for the benefit of the townspeople.

Certain it is that the plaintiff has not proven that the Catholic Church or the parish of Victoria was the owner or proprietor of the said extensive piece of land which now forms the public plaza of said town, nor that it was in possession thereof under the form and conditions required by law, in as much as it has been fully proven that said plaza has been used without let or hindrance by the pub-
70 lic and the residents of the town of Victoria ever since its creation. For the above reasons it is our opinion that the judgment appealed from should be reversed, and that it should be held, as we do hereby hold, that the whole of the land not occupied by the church of the town of Victoria and its parish house, is a public plaza of the said town of public use, and that in consequence thereof the defendant is absolved of the complaint without any special ruling as to the costs of both instances.

Arellano, C. J., Mapa, Johnson, Carson, and Willard, JJ., concur.

Judgment reversed.

71 On April 2, 1909, final judgment was entered as follows:

This Court having regularly acquired jurisdiction for the trial of the above-entitled cause, which was submitted by both parties for decision, after consideration thereof by the Court upon the record and proceedings, its decision and order for judgment having been filed on the 11th day of March, nineteen hundred and nine;

By virtue of the said order the judgment of the Court of First Instance of Tarlac, dated June 19th, nineteen hundred and eight, from which the said appeal was taken, is hereby reversed, and it is declared that all that tract of land not occupied by the church of the town of Victoria and its parish house constitutes the public square or plaza of the said town, devoted to public use, and the defendant is hereby acquitted of the complaint filed by the representatives of the Roman Catholic Church, without special award as to the costs of both instances.

It is further ordered that — recover from — the amount of — as costs.

(Signed) J. E. BLANCO,
[SEAL OF COURT.] *Clerk of the Supreme Court of the Philippine Islands.*

72 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error and Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error and Appellee.

UNITED STATES OF AMERICA,
Philippine Islands, City of Manila, ss:

Jeremiah J. Harty, being first duly sworn on oath deposes and says, that he is the Roman Catholic Archbishop of Manila, the appellant and plaintiff in error in the above entitled cause; that the parish church and parish house mentioned in the decision of the Supreme Court of the Philippine Islands in the above entitled cause are of the value of twenty-five thousand dollars gold coin of the United States; that the said edifices are rendered valueless by the said decision of the Supreme Court of the Philippine Islands to the plaintiff and the Roman Catholic Apostolic Parish at Victoria, because by said decision the said edifices are deprived of free egress and ingress and are left without any adjacent land. Deponent further says that the parcel of land described in the complaint is of the value of twenty-five thousand dollars, gold coin of the United States. Deponent further says that the value of the real estate the pos-
73 session of which is in controversy, exceeds the sum of twenty-five thousand dollars, gold coin of the United States.

(S'g'd) JEREMIAH J. HARTY.

Subscribed and sworn to before me this 12th day of April, 1909. Cédula F-106, dated Manila, Jan. 2, 1909.

(S'g'd) J. McMICKING,
[SEAL.] *Clerk of the Court of First Instance of Manila, ex-officio Notary Public.*

74 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff,
versus
THE MUNICIPALITY OF VICTORIA, Defendant.

UNITED STATES OF AMERICA,
Philippine Islands, City of Manila, ss:

Thomas L. Hartigan, being first duly sworn on oath deposes and says that he is acquainted with the property described in the com-

plaint of the above entitled action, and with the church and parish house situated thereon.

Deponent further says that the parcel of land described in the complaint is of the value of thirty thousand dollars, gold coin of the United States, and that the church and parish house situated on the said land are of the value of twenty-five thousand dollars, gold coin of the United States; and that the value in controversy in the above entitled action exceeds the sum of twenty-five thousand dollars.

(S'g'd) THOMAS L. HARTIGAN.

Subscribed and sworn to before me this 3rd day of May, 1909. Cédula number F-107, dated Jan. 2, 1909.

(S'g'd) S. FERGUSON,
[SEAL.] *Notary Public.*

My Commission expires December 31, 1910.

75 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila,
Plaintiff,
versus
THE MUNICIPALITY OF VICTORIA, Defendant.

UNITED STATES OF AMERICA,
Philippine Islands, City of Manila, ss:

William J. Rohde, being first duly sworn on oath deposes and says that he is acquainted with the property described in the complaint of the above entitled action, and with the church and parish house situated thereon.

Deponent further says that the parcel of land described in the complaint is of the value of thirty thousand dollars, gold coin of the United States, and that the church and parish house situated on the said land are of the value of twenty-five thousand dollars, gold coin of the United States; and further that the value in controversy in the above entitled action exceeds the sum of twenty-five thousand dollars.

(S'g'd) WM. J. ROHDE.

Subscribed and sworn to before me this 3rd day of May, 1909. Cédula number F-107 dated Jan. 2, 1909.

(S'g'd) S. FERGUSON,
[SEAL.] *Notary Public.*

My commission expires December 31, 1910.

76 R. G. Num. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila,
Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Appellee.

The above named plaintiff, conceiving himself aggrieved by the judgment made and entered on the 2nd day of April, nineteen hundred and nine, in the above entitled cause, does hereby appeal from the said judgment and decree to the Supreme Court of the United States for the reasons specified in the assignment of errors which is filed herewith, and prays that this appeal may be allowed and that a transcript of the record, proceedings and papers upon which said judgment and decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

(S'g'd) HARTIGAN & ROHDE,
Attorneys for Appellant.

77 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila,
Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Appellee.

The plaintiff prays an appeal from the final decree of this Court to the Supreme Court of the United States, and assigns for errors:

I.

The Court erred in reversing the judgment of the Court of First Instance.

II.

The Court erred in absolving the defendant of the complaint of plaintiff.

III.

The Court erred in holding that all the land in question not occupied by the parish church and parish house of Victoria is public plaza of the town of Victoria.

(S'g'd) HARTIGAN & ROHDE,
Attorneys for Appellant.

78 R. G. Num. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error.

And now comes Jeremiah J. Harty, plaintiff herein, and says:

That on or about the 2nd day of April, 1909, the Supreme Court of the Philippine Islands entered a judgment herein in favor of the defendant and against this plaintiff, in which judgment and proceedings had prior thereto in this cause certain errors were committed to the prejudice of this plaintiff all of which will more in detail appear from the assignment of errors which is filed with this petition.

Wherefore this plaintiff prays that a writ of error may be issued in this behalf out of the Supreme Court of the United States for the correction of errors so complained of, and that a transcript of the record, proceedings and papers in this cause duly authenticated, may be sent to the Supreme Court of the United States.

(S'g'd) HARTIGAN & ROHDE.
Attorneys for Plaintiff in Error.

79 R. G. Num. 5013.

UNITED STATES OF AMERICA.
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error

The plaintiff in this case, in connection with his petition for a writ of error, makes the following assignment of errors which he avers exist:

I.

The Court erred in reversing the judgment of the Court of First Instance.

II.

The Court erred in absolving the defendant of the complaint of plaintiff.

III.

The Court erred in holding that all the land in question not occupied by the Parish Church and Parish House of Victoria is public plaza of the town of Victoria.

(S'g'd) HARTIGAN & ROHDE.
Attorneys for Plaintiff in Error.

80 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error.

Order.

Upon consideration of plaintiff's petitions for an appeal and writ of error, respectively, in the above entitled cause, to the Supreme Court of the United States, from the final decree of this Court, it is hereby ordered that the parties be cited to appear before the undersigned on Thursday, the 22nd instant, 9 o'clock A. M., and the defendant Municipality of Victoria is hereby directed to there and then show cause why the said prayer of appeal and writ of error should not be allowed.

Manila, P. I., April 13, 1909.

(S'g'd) A. C. CARSON,
Associate Justice Supreme Court, P. I.,
Acting in Vacation.

Service acknowledged this thirteenth day of April, 1909.

(S'g'd) HARTIGAN & ROHDE.
FELIPE BUENCAMINO,
(S'g'd) By EUGENIO ARNEDO.

81 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error.

Order.

It is hereby ordered that the hearing upon the question of the allowance of the writ of error and appeal in the above entitled cause be continued to the third day of May, 1909, at nine o'clock A. M., and that notice hereof be at once sent to the parties.

Manila, P. I., April 22, 1909.

(S'g'd) A. C. CARSON,
Associate Justice Supreme Court, P. I.,
Acting in Vacation.

Service acknowledged this 22nd day of April, 1909.

(S'g'd) HARTIGAN & ROHDE.
FELIPE BUENCAMINO,
(S'g'd) By EUGENIO ARNEDO.

82 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff,
versus
THE MUNICIPALITY OF VICTORIA, Defendant.

UNITED STATES OF AMERICA,
Philippine Islands, City of Manila, ss:

No affidavits having been filed by or on behalf of the defendant municipality in this action, which was duly cited to appear and did in fact appear by counsel to show cause why a writ of error and an appeal should not be allowed therein, and it appearing from the affidavits of Jeremiah J. Harty, Wm. J. Rohde and Thomas L. Harti-

gan that the "value in controversy" in this action, and that the real estate, title and possession of which is involved and brought in question therein, exceeds Twenty-five Thousand Dollars ($25,000), the undersigned is of opinion that he should hold and he does hereby hold that the "value in controversy" does in fact exceed Twenty-five Thousand Dollars ($25,000), in accordance with the provisions of section 10 of an Act of Congress, dated July 1, 1902, which prescribes that such value is "to be ascertained by the oath of either party or of competent witnesses."

This holding is announced notwithstanding the fact that by admission of counsel for plaintiff, it appears that the value of the
83 parcel of land for which judgment was rendered in favor of the defendant municipality, exclusive of the value of the adjoining parcel of land with the church and convent situated thereon, title to which is recognized to be in the plaintiff, and damages thereto resulting from the aforesaid judgment, does not exceed Twenty-five Thousand Dollars ($25,000.00).

Manila, P. I., June 1, 1909.

(S'g'd) A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands, Assigned to Duty in Vacation.

84 R. G. Núm. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Appellee.

On Petition of counsel for plaintiff and appellant, an appeal to the Supreme Court of the United States of America, from the final decree and judgment heretofore filed, and herein entered, is allowed upon the filing of a bond with good and sufficient surety in the sum of One Thousand Dollars, United States Currency ($1000.00), for costs on appeal, it appearing from the affidavits filed in the record that the value of the subject matter in controversy is more than Twenty-five Thousand Dollars, United States Currency ($25,000).

Let a certified copy of the record, testimony, stipulations, and all proceedings herein, be transmitted forthwith to said Supreme Court of the United States of America.

Manila, P. I., June 1, 1909.

(S'g'd) A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands. Assigned to Duty in Vacation.

85 R. G. Núm. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Appellee.

THE UNITED STATES OF AMERICA, *ss*:

The President of the United States to the Municipality of Victoria, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at the City of Washington, within one hundred and twenty days from the date of this writ, pursuant to an appeal duly allowed by the Supreme Court of the Philippine Islands and filed in the Clerk's office of the said Court on the 29th day of September, 1909, in a cause wherein Mgr. Jeremiah J. Harty is appellant and you are appellee, to show cause, if any, why the decree rendered against the said appellant as in the said appeal mentioned should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 1st day of June, 1909.

(S'g'd) A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands, Assigned to Duty in Vacation.

Received copy, this 1st day of June, 1909.

(S'g'd) FELIPE BUENCAMINO.

86 R. G. Núm. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the Judges of the Supreme Court of the Philippine Islands, Greeting:

Because in the records and proceedings, and also in the rendition of the judgment of a plea which is in the said Court before you, between Mgr. Jeremiah J. Harty, plaintiff and the Municipality of Victoria, defendant, wherein it appears from the affidavits hereto attached that the subject matter in controversy exceeds in value the sum of Twenty-five Thousand Dollars, United States Currency ($25,000), a manifest error has happened, to the great damage of the said Mgr. Jeremiah J. Harty, as by his complaint appears. We, being willing that the error, if any has been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this
87 writ, so that you may have the same at the City of Washington on the 29th day of September, 1909, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid, being inspected, the said Supreme Court may cause further to be done to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 24th day of May, in the year of Our Lord one thousand nine hundred and nine and of the Independence of the United States of America the one hundred and thirty-third.

(Sgd.) J. E. BLANCO,
[SEAL.] *Clerk of the Supreme Court of the Philippine Islands.*

The foregoing writ of error is allowed this 24th day of May, 1909, upon the filing by plaintiff and appellant of a bond with good and sufficient surety, in the sum of One Thousand Dollars, United

States Currency ($1000.00), to prosecute the said writ of error to effect and answer all costs if he fails to make good his plea.

Let a certified copy of the record, testimony, stipulations, and all proceedings herein, be transmitted forthwith to said Supreme Court of the United States.

(Sgd.) A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands, Assigned to Duty in Vacation.

88 R. G. Núm. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error.

UNITED STATES OF AMERICA, *ss:*

To the Municipality of Victoria, Greeting:

You are hereby cited admonished to be and appear at a Supreme Court of the United States to be holden at the City of Washington on the 29th day of September next, pursuant to a writ of error filed in the Clerk's Office of the Supreme Court of the Philippine Islands wherein Mgr. Jeremiah J. Harty is plaintiff and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in said writ of error mentioned should not be corrected and speedy justice be done to the parties in this behalf.

Given under my hand at the City of Manila in the Philippine Islands, this 1st day of June in the year of Our Lord one thousand nine hundred and nine.

(Signed) A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands, Assigned to Duty in Vacation.

Received copy, this 1st day of June, 1909.

(Sgd.) FELIPE BUENCAMINO.

89 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Appellee.

Know all men by these presents: That we, William J. Rhode, as principal, and Thomas L. Hartigan and Roman Lacson as sureties, are held and firmly bound to the Municipality of Victoria in the full sum of One Thousand Dollars to be paid to the said Municipality of Victoria or its assigns; to which payment, well and truly to be made we bind ourselves, our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seal- and dated this 12 day of April, in the year of Our Lord one thousand nine hundred and nine.

Whereas lately in the Supreme Court of the Philippine Islands, in a suit pending in said Court between Mgr. Jeremiah J. Harty plaintiff, and the Municipality of Victoria, defendant, a decree was rendered against the said plaintiff, and the said plaintiff having obtained an appeal and filed a copy thereof in the Clerk's office of the said Court to reverse the decree in the aforesaid suit and a citation directed to the said Municipality of Victoria citing and admonishing the same to be and appear at a session of the Supreme Court of the United States to be holden at the City of Washington on the 29th day of September, 1909:

90 Now the condition of the above obligation is such that if the said plaintiff shall prosecute his appeal and answer all damages and costs if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

(Sgd.) WM. J. ROHDE.
(Sgd.) THOMAS L. HARTIGAN.
(Sgd.) ROMAN LACSON.

Approved:

(Sgd.) A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands.

91 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error.

Know all men by these presents, That We, William J. Rohde, as principal, and Roman Lacson and Thomas L. Hartigan as sureties, are held and firmly bound unto the Municipality of Victoria in the sum of One thousand Dollars to be paid to the said Municipality of Victoria, its attorneys, or assigns: to which payment, well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals and dated this 12 day of April in the year of Our Lord one thousand nine hundred and nine.

Whereas, lately in the Supreme Court of the Philippine Islands, in a suit pending in said court between Mgr. Jeremiah J. Harty, plaintiff, and the Municipality of Victoria, defendant a judgment was rendered dismissing the suit of the said plaintiff and the said Mgr. Jeremiah J. Harty having obtained a writ of error and filed a copy thereof in the Clerk's office of the said Court to reverse the judgment in the said suit and a citation directed to the said Municipality of Victoria citing and admonishing the said Municipality to be and appear at a session of the Supreme Court of the United States to be holden at the city of Washington on the 29th day of September, next.

92

Now, the condition of the above obligation is such that if the said Mgr. Jeremiah J. Harty shall prosecute the said writ of error to effect and answer all damages and costs if he fail to make his plea good, then the above obligation be void else to remain in full force and virtue.

(Sgd.) WM. J. ROHDE.
(Sgd.) THOMAS L. HARTIGAN.
(Sgd.) ROMAN LACSON.

Approved by:

A. C. CARSON,
Associate Justice of the Supreme Court.

93 THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

I, J. E. Blanco, Clerk of the Supreme Court of the Philippine Islands, do hereby certify that the foregoing ninety-two pages of typewritten matter constitute a true and correct transcript and translation of the record and proceedings in case No. 5013 of said Court, entitled "Mgr. Jeremiah J. Harty, Catholic Archbishop of Manila, plaintiff and appellant versus The Municipality of Victoria, defendant and appellee"; and in obedience to the writ of error and appeal herein I hereby transmit the same to the Supreme Court of the United States of America.

Witness my hand and seal of the Supreme Court of the Philippine Islands, this eighteenth day of June, 1909.

[Seal Corte Suprema, Islas Filipinas.]

J. E. BLANCO,
Clerk Supreme Court of the Philippine Islands.

94 R. G. Núm. 5013.

UNITED STATES OF AMERICA.
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila,
Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Appellee.

The above named plaintiff, conceiving himself aggrieved by the judgment made and entered on the 2 day of April, nineteen hundred and nine, in the above entitled cause, does hereby appeal from the said judgment and decree to the Supreme Court of the United States for the reasons specified in the assignment of errors which is filed herewith, and prays that this appeal may be allowed and that a transcript of the record, proceedings and papers upon which said judgment and decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

HARTIGAN & ROHDE,
Attorneys for Appellant.

95 R. G. No. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila,
Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Appellee.

The plaintiff prays an appeal from the final decree of this Court to the Supreme Court of the United States, and assigns for errors:

I.

The Court erred in reversing the judgment of the Court of First Instance.

II.

The Court erred in absolving the defendant of the complaint of plaintiff.

III.

The Court erred in holding that all the land in question not occupied by the parish church and parish house of Victoria is public plaza of the town of Victoria.

HARTIGAN & ROHDE,
Attorneys for Appellant.

96 R. G. Núm. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila,
Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Appellee.

On Petition of counsel for plaintiff and appellant, an appeal to the Supreme Court of the United States of America, from the final decree and judgment heretofore filed, and herein entered, is allowed, upon the filing of a bond with good and sufficient surety in the sum of One Thousand Dollars, United States Currency ($1000.00), for costs on appeal, it appearing from the affidavits filed in the record

that the value of the subject matter in controversy is more than Twenty-five Thousand Dollars, United States Currency ($25,000.00).

Let a certified copy of the record, testimony, stipulations, and all proceedings herein, be transmitted forthwith to said Supreme Court of the United States of America.

Manila, P. I., June 1, 1909.

[Seal Corte Suprema, Islas Filipinas.]

A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands, Assigned to Duty in Vacation.

97 R. G. Núm. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila,
Appellant,
versus
THE MUNICIPALITY OF VICTORIA, Appellee.

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States to the Municipality of Victoria, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at the City of Washington within one hundred and twenty days from the date of this writ, pursuant to an appeal duly allowed by the Supreme Court of the Philippine Islands and filed in the Clerk's office of the said Court on the 29th day of September, 1909, in a cause wherein Mgr. Jeremiah J. Harty is appellant and you are appellee, to show cause, if any, why the decree rendered against the said appellant as in the said appeal mentioned should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 1st day of June, 1909.

[Seal Corte Suprema, Islas Filipinas.]

A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands, Assigned to Duty in Vacation.

Received copy this first day of June, 1909.

FELIPE BUENCAMINO.

98 R. G. Núm. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the Judges of the Supreme Court of the Philippine Islands, Greeting:

Because in the records and proceedings, and also in the rendition of the judgment of a plea which is in the said Court before you, between Mgr. Jeremiah J. Harty, plaintiff, and the Municipality of Victoria, defendant, wherein it appears from the affidavits hereto attached that the subject matter in controversy exceeds in value the sum of Twenty-five Thousand Dollars, United States Currency ($25,000), a manifest error has happened, to the great damage of the said Mgr. Jeremiah J. Harty, as by his complaint appears. We, being willing that the error, if any has been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to
99 the Supreme Court of the United States, together with this writ, so that you may have the same at the City of Washington on the 29th day of September, 1909, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid, being inspected, the said Supreme Court may cause further to be done to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 24th day of May, in the year of Our Lord one thousand nine hundred and nine and of the Independence of the United States of America the one hundred and thirty-third.

[Seal Corte Suprema, Islas Filipinas.]

J. E. BLANCO,
Clerk of the Supreme Court
of the Philippine Islands.

The foregoing writ of error is allowed this 24th day of May, 1909, upon the filing by plaintiff and appellant of a bond with good and sufficient surety, in the sum of One Thousand Dollars, United States Currency ($1000.00), to prosecute the said writ of error to effect and answer all costs if he fails to make good his plea.

Let a certified copy of the record, testimony, stipulations, and all proceedings herein, be transmitted forthwith to said Supreme Court of the United States.

[Seal Corte Suprema, Islas Filipinas.]

A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands, Assigned to Duty in Vacation.

100 R. G. Núm. 5013.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

At Law.

Mgr. JEREMIAH J. HARTY, Roman Catholic Archbishop of Manila, Plaintiff in Error,
versus
THE MUNICIPALITY OF VICTORIA, Defendant in Error.

UNITED STATES OF AMERICA, *ss:*

To the Municipality of Victoria, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the City of Washington on the 29th day of September next, pursuant to a writ of error filed in the Clerk's Office of the Supreme Court of the Philippine Islands wherein Mgr. Jeremiah J. Harty is plaintiff and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in said writ of error mentioned should not be corrected and speedy justice be done to the parties in that behalf.

Given under my hand at the City of Manila in the Philippine Islands, this 1st day of June in the year of Our Lord one thousand nine hundred and nine.

[Seal Corte Suprema, Islas Filipinas.]

A. C. CARSON,
Associate Justice of the Supreme Court of the Philippine Islands, Assigned to Duty in Vacation.

Received copy this first day of June 1909.

FELIPE BUENCAMINO.

Endorsed on cover: File No. 21,873. Philippine Islands Supreme Court. Term No. 149. Mgr. Jeremiah J. Harty, appellant and plaintiff in error, vs. The Municipality of Victoria. Filed October 18th, 1909. File No. 21,873.